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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/055,043 | 01/23/2002 | Thomas C. Hunt | | 5788 |

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EXAMINER

RADA, ALEX P

ART UNIT PAPER NUMBER

3714

DATE MAILED: 10/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/055,043

Applicant(s)

HUNT ET AL.

Examiner

Alex P. Rada

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____ 6) ☐ Other:

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 1-35 are rejected less than 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The non-statutory subject matter of claims 1-35 is directed to providing living subject matters (human beings) for a game.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 7, 13, 23-24, and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Stephens '414.
5. Stephens discloses a playing area (figure 1) having 144 playing stations (figure 1) arranged in a matrix, the playing stations having four sides with each side having eight middle playing stations having the playing stations disposed either side of the eight middle playing stations, the inner playing stations disposed inward abutting with the eight middle playing stations (figure 1), providing four or three sets of chess pieces, placing one set of chess pieces in conventional starting arrangement upon the eight middle playing station and either inner playing station of each side of the playing area, providing four or three or two player playing areas,

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providing different sets and combinations of chess pieces for different types of games, providing rules of play including conventional and modified conventional rules of chess as recited in claims 1, 7, 13, 23, and 27; placing chess pieces limited to designated portions of the playing area, in which the examiner interprets to be the borders of the game as recited in claims 24 and 28.

6. Claim 33 is rejected under 35 U.S.C. 102(b) as being anticipated by Doug Vogel. (Vogel).

7. Vogel discloses a playing area (figure 1) having 144 playing stations (figure 1) arranged in a matrix, the playing stations having four sides with each side having eight middle playing stations having the playing stations disposed either side of the eight middle playing stations, each side having; eight first tier playing stations disposed in inward abutting relationship with the eight middle playing stations, the eight second tier playing station disposed in inward abutting relationship with the eight first tier playing station, the eight third tier playing stations disposed in inward abutting relationship with the eight second tier playing stations, having two sets of chess pieces, placing one set of chess piece in conventional starting arrangement upon the eight second tier playing station and the eight third tier playing stations of two opposite sides of the playing area, having two players positions disposed adjacent to eh two sets of chess pieces and the two player playing a modified game of chess.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 2, 4, 8, 10, 14, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens `414 in view of McLoy `602.

10. Stephens discloses the claimed invention as discussed above except for putting a King into checkmate by one of the pieces of two other players and by three other players as recited in claims 2, 8, and 14; when King is checkmated the checkmate removable by an intervening player as recited in claims 4, 10, and 16.

McLoy teaches putting a King into checkmate by two or three players and the checkmated King being removed. By putting a King into checkmate by two or three players, one of ordinary skill in the art would provide game players with a challenging game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Stephens to include a King into checkmate by two or three players and the checkmated King being removed as taught by McLoy. To do so would provide game players with a different variation to a traditional game of chess.

11. Claims 3, 9, and 15 rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens `414 in view of Adams `666 and Wearley `762.

12. Stephens discloses the claimed invention as discussed above except for when a King is checkmated the player whose king is checkmated removing all his or her chess pieces from the playing area and retiring from play and when a King is checkmated the player whose King is checkmated removing his or her King from the playing area and leaving all remaining chess pieces in place on the playing area and retiring from play as recited in claims 3, 9, and 15.

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Adam teaches when a King is checkmated the player whose king is checkmated removing all his or her chess pieces from the playing area and retiring from play (column 4, lines 43-55). By having removing a checkmated King and the chess pieces from the playing area, one of ordinary skill in the art would provide game players with a unique game requiring more strategy than a traditional chess game. Both Stephens and Adam do not expressly disclose when a King is checkmated the player whose King is checkmated removing his or her King from the playing area and leaving all remaining chess pieces in place on the playing area and retiring from play.

Wearley teaches when a King is checkmated the player whose King is checkmated removing his or her King from the playing area and leaving all remaining chess pieces in place on the playing area and retiring from play (column 6, lines 44-61). By having a checkmated King and leaving all remaining chess pieces in place on the playing area, one of ordinary skill in the art would provide game players with ability to block an attack line or to avoid being captured. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Stephens to include removing a checkmated King and the chess pieces from playing area as taught by Adams and a checkmated King and leaving all remaining chess pieces in place on the playing area as taught by Wearley. To do so would provide a strategically challenging game.

13. Claims 5, 11, 17, 25, 31, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stephens '414 in view of Nebermann.

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14. Stephens discloses the claimed invention as discussed above except for each set of chess pieces including at least one master pawn and the master pawn moving diagonally and capturing straight ahead as recited in claims 5, 11, 17, and 25.

Nebermann teaches a pawn moving diagonally forward and capturing vertically forward. By having a pawn that can move diagonally forward and capture vertically forward, one of ordinary skill in the art would provide new and exciting game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Stephens to include a pawn that can move diagonally forward and capture vertically forward as taught by Nebermann. To do so would provide game players with a challenging twist to a traditional game of chess.

15. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doug Vogel. (Vogel) in view of Nebermann.

16. Vogel discloses the claimed invention as discussed above except for each set of chess pieces including at least one master pawn and the master pawn moving diagonally and capturing straight ahead as recited in claims 5, 11, 17, and 25.

Nebermann teaches a pawn moving diagonally forward and capturing vertically forward. By having a pawn that can move diagonally forward and capture vertically forward, one of ordinary skill in the art would provide new and exciting game. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the applicant's invention was made to modify Vogel to include a pawn that can move diagonally forward and capture vertically forward as taught by Nebermann. To do so would provide game players with a challenging twist to a traditional game of chess.

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Allowable Subject Matter

17. Claims 6, 12, 18, 26, 29-30, 32, and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

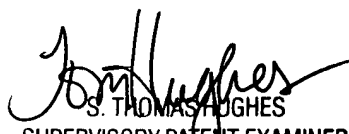
Sirk '913, Kiefer '399, Navin '849, Pickett '300, Shomer '349, Perry '669, and Farrell '478 all disclose different types of four player chess.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alex P. Rada whose telephone number is 703-308-7135. The examiner can normally be reached on Monday - Friday, 08:00-16:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tom Hughes can be reached on 703-308-1806. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

apr


S. THOMAS HUGHES
SUPERVISORY PATENT EXAMINER
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